

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

KENNETH EUGENE CARTER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:17-cv-01337
)	
PRIME CARE MEDICAL,)	
)	
Defendant.)	

ORDER

Pending before the Court is Plaintiff’s Motion to Amend Complaint (Document No. 42), filed on July 24, 2018. In support, Plaintiff states that he wishes to amend his Complaint to name additional individuals as defendants. (Id.) Plaintiff explains that the identities of these individuals were previously unknown. (Id.) Accordingly, Plaintiff requests that the following individuals be named as defendants: Maria Porter, Kathy Weekly, and Jarrod Steward.¹ (Id.)

Rule 15(a)(1)(A) of the Federal Rules of Civil Procedure provides that a party may amend his pleadings “once as a matter of course within: (A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1). “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave. The court should freely give leave when justice so requires.”

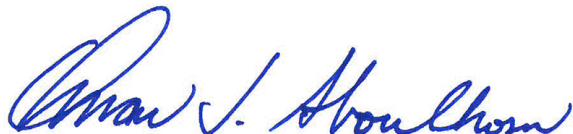
¹ The undersigned notes that in his prior Response to Defendant’s Motion to Dismiss, Plaintiff stated that he was unable to name certain Prime Care employees as defendants because they concealed their identities by failing to wear name tags. The undersigned noted that Plaintiff could amend his Complaint to name “John Doe” or “Jane Does” as defendants where the “true identity of an unnamed party can be discovered through discovery or through intervention by the Court.”

Fed. R. Civ. P. 15(a)(2). “[A] motion to amend should be denied only where it would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile.” Marfork Coal Co. v. Smith, 2011 WL 744727 (S.D.W.Va. Feb. 23, 2011)(J. Berger)(citations omitted).

The undersigned finds that Plaintiff’s Motion should be granted. Plaintiff states that he just recently learned, through discovery, the identities of the unknown defendants. There is no indication of bad faith by Plaintiff or that the opposing party would be prejudiced at this point in the proceedings by the amendment. Further, Prime Care has filed no response opposing the motion to amend. Under these circumstances, it is appropriate to grant Plaintiff’s Motion. It is hereby **ORDERED** that Plaintiff’s Motion to Amend (Document No. 42) is **GRANTED**. Plaintiff shall file his Amended Complaint by **August 17, 2018**. Plaintiff must state what constitutional, statutory or common law rights he believes each defendant has violated and support each claim with specific factual allegations about each defendant’s actions or omissions, and allege, with some degree of particularity, how each named defendant was involved in the alleged deprivation of his rights. Plaintiff is further directed to provide the Court with the addresses for each new defendant so service can be perfected upon the filing of the Amended Complaint. The Clerk is **DIRECTED** to add the following as defendants to the docket sheet: Maria Porter, Kathy Weekly, and Jarrod Steward.

The Clerk is directed to send a copy of this Order to Plaintiff, who is acting *pro se*, and counsel of record.

ENTER: August 3, 2018.


Omar J. Aboulhosn
United States Magistrate Judge